

HOUSE BILL 1058

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By: **Delegate Stewart**

Introduced and read first time: February 5, 2021

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Public Ethics – Disclosures, Training, and Use of Confidential Information**
3 **(Integrity in High Office Act)**

4 FOR the purpose of requiring the State Ethics Commission to provide a certain training
5 course to a certain State official; requiring a certain official to send a copy of a certain
6 disclosure of a certain conflict of interest to the presiding officers of the General
7 Assembly and the Ethics Commission; requiring a certain official who takes a certain
8 executive action and has a certain interest to provide certain information to the
9 Ethics Commission and the Joint Committee on Legislative Ethics, except under
10 certain circumstances; requiring the Ethics Commission to provide certain
11 information regarding certain employment or financial interests of certain State
12 officials to the Joint Ethics Committee; providing that the Ethics Commission is not
13 required to provide certain documents to the Joint Ethics Committee under certain
14 circumstances; prohibiting a former official or State employee from disclosing or
15 using certain confidential information for certain purposes; requiring a legislator to
16 report certain information related to a certain contractual or financial relationship
17 with a governmental or quasi-governmental entity, including those involving a
18 certain business entity, to the Joint Ethics Committee; prohibiting the Ethics
19 Commission and the Joint Ethics Committee from posting certain information on the
20 Internet; requiring an individual required to disclose the name of a certain business
21 to disclose certain information; requiring that a certain statement include a certain
22 schedule of a certain financial or contractual relationship with a certain
23 governmental or quasi-governmental entity; prohibiting a certain individual from
24 being required to disclose the individual's employment as a public official on a
25 financial disclosure statement; requiring a financial disclosure statement of certain
26 State officials to include certain information; altering the types of interests
27 attributable to a certain individual filing a financial disclosure statement; defining
28 a certain term; and generally relating to disclosures, confidential information, and
29 public ethics.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY renumbering
 2 Article – General Provisions
 3 Section 5–607(j) and (k), respectively
 4 to be Section 5–607(l) and (m), respectively
 5 Annotated Code of Maryland
 6 (2019 Replacement Volume and 2020 Supplement)
- 7 BY repealing and reenacting, without amendments,
 8 Article – General Provisions
 9 Section 5–101(a), (l), (t), and (ll), 5–502(a), (b), and (c), and 5–607(a)
 10 Annotated Code of Maryland
 11 (2019 Replacement Volume and 2020 Supplement)
- 12 BY adding to
 13 Article – General Provisions
 14 Section 5–101(gg–1), 5–502(f), and 5–607(a–1), (j), and (k)
 15 Annotated Code of Maryland
 16 (2019 Replacement Volume and 2020 Supplement)
- 17 BY repealing and reenacting, with amendments,
 18 Article – General Provisions
 19 Section 5–205(d), 5–301, 5–303, 5–501, 5–507, 5–514(b), 5–606(a), and 5–608
 20 Annotated Code of Maryland
 21 (2019 Replacement Volume and 2020 Supplement)
- 22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 23 That Section(s) 5–607(j) and (k), respectively, of Article – General Provisions of the
 24 Annotated Code of Maryland be renumbered to be Section(s) 5–607(l) and (m), respectively.
- 25 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 26 as follows:
- 27 **Article – General Provisions**
- 28 5–101.
- 29 (a) In this title the following words have the meanings indicated unless:
- 30 (1) the context clearly requires a different meaning; or
- 31 (2) a different definition is adopted for a particular provision.
- 32 (l) “Executive action” means an act:
- 33 (1) for which the Executive Branch of State government is responsible; and
- 34 (2) that is taken by an official or employee of the Executive Branch.

1 (t) (1) "Interest" means a legal or equitable economic interest that is owned or
2 held wholly or partly, jointly or severally, or directly or indirectly, whether or not the
3 economic interest is subject to an encumbrance or condition.

4 (2) "Interest" does not include:

5 (i) an interest held in the capacity of agent, custodian, fiduciary,
6 personal representative, or trustee, unless the holder has an equitable interest in the
7 subject matter;

8 (ii) an interest in a time or demand deposit in a financial institution;

9 (iii) an interest in an insurance policy, endowment policy, or annuity
10 contract under which an insurer promises to pay a fixed amount of money in a lump sum
11 or periodically for life or a specified period;

12 (iv) a common trust fund or a trust that forms part of a pension or a
13 profit-sharing plan that:

14 1. has more than 25 participants; and

15 2. is determined by the Internal Revenue Service to be a
16 qualified trust under the Internal Revenue Code or a qualified tuition plan established
17 pursuant to Section 529 of the Internal Revenue Code; or

18 (v) a mutual fund or exchange-traded fund that is publicly traded
19 on a national scale unless the mutual fund or exchange-traded fund is composed primarily
20 of holdings of stocks and interests in a specific sector or area that is regulated by the
21 individual's governmental unit.

22 **(GG-1) (1) "QUASI-GOVERNMENTAL ENTITY" MEANS AN ENTITY THAT**
23 **IS CREATED BY STATE STATUTE, THAT PERFORMS A PUBLIC FUNCTION, AND THAT**
24 **IS SUPPORTED IN WHOLE OR IN PART BY THE STATE BUT IS MANAGED PRIVATELY.**

25 **(2) "QUASI-GOVERNMENTAL ENTITY" INCLUDES THE**
26 **UNIVERSITY OF MARYLAND MEDICAL SYSTEM.**

27 (ll) "State official" means:

28 (1) a constitutional officer or officer-elect in an executive unit;

29 (2) a member or member-elect of the General Assembly;

30 (3) a judge or judge-elect of a court under Article IV, § 1 of the Maryland
31 Constitution;

1 (4) a judicial appointee as defined in Maryland Rule 18–200.3;

2 (5) a State’s Attorney;

3 (6) a clerk of the circuit court;

4 (7) a register of wills; or

5 (8) a sheriff.

6 5–205.

7 (d) (1) The Ethics Commission shall provide a training course of at least 2
8 hours on the requirements of the Maryland Public Ethics Law for an individual who:

9 (i) fills a vacancy in a position that has been identified as a public
10 official position under § 5–103 of this title; [or]

11 (ii) serves in a position identified as a public official position under §
12 5–103 of this title; OR

13 **(III) IS A STATE OFFICIAL THAT IS SUBJECT TO THE**
14 **JURISDICTION OF THE ETHICS COMMISSION UNDER § 5–104(A) OF THIS TITLE.**

15 (2) The individual shall complete the training course within 6 months of:

16 (i) filling a vacancy; or

17 (ii) a position being identified as a public official position.

18 (3) The training requirement under this subsection does not apply to an
19 individual who:

20 (i) except for a member of a board of license commissioners or a
21 liquor control board, is a public official only as a member of a commission, task force, or
22 similar entity; or

23 (ii) has completed a training course provided by the Ethics
24 Commission while serving in another public official position.

25 5–301.

26 (a) (1) Subject to subsection (b) of this section, on written request of an entity
27 subject to this title, the appropriate advisory body shall issue an advisory opinion regarding
28 the application of this title.

1 (2) On written request of any other entity, the appropriate advisory body
2 may issue an advisory opinion.

3 (b) (1) The appropriate advisory body may issue informal advice instead of an
4 advisory opinion.

5 (2) [Information] **EXCEPT AS PROVIDED IN § 5-502(F) OF THIS TITLE,**
6 **INFORMATION** related to informal advice provided under this subsection shall remain
7 confidential and is not subject to the requirements of § 5-303 of this subtitle.

8 5-303.

9 (a) Each advisory opinion shall be:

10 (1) in writing; and

11 (2) published in the Maryland Register, subject to subsection (b) of this
12 section.

13 (b) (1) [Before] **EXCEPT AS PROVIDED IN § 5-502(F) OF THIS TITLE,**
14 **BEFORE** an advisory opinion may be made public, the advisory body shall delete:

15 (i) the name of the entity that is the subject of the opinion; and

16 (ii) to the fullest extent possible, any other information that may
17 identify the entity.

18 (2) The identity of the entity that is the subject of the opinion may not be
19 revealed.

20 5-501.

21 (a) Except as otherwise provided in subsection (c) of this section, an official or
22 employee may not participate in a matter if:

23 (1) the official or employee or a qualifying relative of the official or
24 employee has an interest in the matter and the official or employee knows of the interest;
25 or

26 (2) any of the following is a party to the matter:

27 (i) a business entity in which the official or employee has a direct
28 financial interest of which the official or employee reasonably may be expected to know;

29 (ii) a business entity, including a limited liability company or a
30 limited liability partnership, of which any of the following is an officer, a director, a trustee,
31 a partner, or an employee:

- 1 1. the official or employee; or
- 2 2. if known to the official or employee, a qualifying relative
3 of the official or employee;
- 4 (iii) a business entity with which any of the following has applied for
5 a position, is negotiating employment, or has arranged prospective employment:
- 6 1. the official or employee; or
- 7 2. if known to the official or employee, a qualifying relative
8 of the official or employee;
- 9 (iv) if the contract reasonably could be expected to result in a conflict
10 between the private interest and the official State duties of the official or employee, a
11 business entity that is a party to a contract with:
- 12 1. the official or employee; or
- 13 2. if known to the official or employee, a qualifying relative
14 of the official or employee;
- 15 (v) a business entity, either engaged in a transaction with the State
16 or subject to regulation by the official's or employee's governmental unit, in which a direct
17 financial interest is owned by another business entity if the official or employee:
- 18 1. has a direct financial interest in the other business entity;
19 and
- 20 2. reasonably may be expected to know of both financial
21 interests; or
- 22 (vi) a business entity that:
- 23 1. the official or employee knows is a creditor or an obligee of
24 the official or employee, or of a qualifying relative of the official or employee, with respect
25 to a thing of economic value; and
- 26 2. as a creditor or an obligee, is in a position to affect directly
27 and substantially the interest of the official, employee, or qualifying relative.
- 28 (a-1) (1) This subsection does not apply to an individual who is a public official
29 only as a member of a board and who receives annual compensation that is less than 25%
30 of the lowest annual compensation at State grade level 16.
- 31 (2) A former regulated lobbyist who is or becomes subject to regulation

1 under this title as a public official or employee may not participate in a case, contract, or
2 other specific matter as a public official or employee for one calendar year after the
3 termination of the registration of the former regulated lobbyist if the former regulated
4 lobbyist previously assisted or represented another party for compensation in the matter.

5 (b) (1) The prohibitions of subsection (a) of this section do not apply if
6 participation is allowed:

7 (i) as to officials and employees subject to the authority of the Ethics
8 Commission, by regulation of the Ethics Commission;

9 (ii) by the opinion of an advisory body; or

10 (iii) by another provision of this subtitle.

11 (2) This section does not prohibit participation by an official or employee
12 that is limited to the exercise of an administrative or ministerial duty that does not affect
13 the decision or disposition with respect to the matter.

14 (c) (1) An official or employee who otherwise would be disqualified from
15 participation under subsection (a) of this section shall disclose the nature and
16 circumstances of the conflict, and may participate or act, if:

17 [(1)] (I) the disqualification would leave a body with less than a quorum
18 capable of acting;

19 [(2)] (II) the disqualified official or employee is required by law to act; or

20 [(3)] (III) the disqualified official or employee is the only individual
21 authorized to act.

22 (2) IF THE GOVERNOR, LIEUTENANT GOVERNOR, ATTORNEY
23 GENERAL, TREASURER, OR COMPTROLLER IS REQUIRED TO MAKE A DISCLOSURE
24 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE GOVERNOR, LIEUTENANT
25 GOVERNOR, ATTORNEY GENERAL, TREASURER, OR COMPTROLLER, AS
26 APPROPRIATE, SHALL SEND A COPY OF THE DISCLOSURE TO THE PRESIDING
27 OFFICERS OF THE GENERAL ASSEMBLY AND TO THE ETHICS COMMISSION.

28 (D) (1) THIS SUBSECTION APPLIES ONLY TO:

29 (I) THE GOVERNOR;

30 (II) THE LIEUTENANT GOVERNOR;

31 (III) THE ATTORNEY GENERAL;

1 (IV) THE TREASURER;

2 (V) THE COMPTROLLER; AND

3 (VI) A SECRETARY OF A PRINCIPAL DEPARTMENT IN THE
4 EXECUTIVE BRANCH.

5 (2) (I) AN OFFICIAL WHO TAKES EXECUTIVE ACTION THAT THE
6 OFFICIAL KNOWS OR REASONABLY SHOULD KNOW WOULD HAVE A MATERIAL
7 FINANCIAL IMPACT ON THE OFFICIAL OR A PERSON WHOSE INTERESTS ARE
8 ATTRIBUTABLE TO THE OFFICIAL UNDER § 5-608 OF THIS TITLE SHALL PROVIDE
9 THE ETHICS COMMISSION AND THE JOINT ETHICS COMMITTEE A DESCRIPTION OF
10 THE EXECUTIVE ACTION AND THE CIRCUMSTANCES OF THE POTENTIAL IMPACT.

11 (II) AN OFFICIAL IS NOT REQUIRED TO MAKE A DISCLOSURE
12 UNDER THIS PARAGRAPH IF THE IMPACT IS COMMON TO ALL MEMBERS OF:

13 1. THE GENERAL PUBLIC OR A LARGE CLASS OF THE
14 GENERAL PUBLIC; OR

15 2. A PROFESSION OR OCCUPATION OF WHICH THE
16 OFFICIAL IS A MEMBER.

17 5-502.

18 (a) This section does not apply to members of the General Assembly.

19 (b) Except as provided in subsections (c) and (d) of this section, an official or
20 employee may not:

21 (1) be employed by or have a financial interest in:

22 (i) an entity subject to the authority of that official or employee or
23 of the governmental unit with which the official or employee is affiliated; or

24 (ii) an entity that is negotiating or has entered a contract with that
25 governmental unit or an entity that is a subcontractor on a contract with that governmental
26 unit; or

27 (2) hold any other employment relationship that would impair the
28 impartiality and independent judgment of the official or employee.

29 (c) The prohibitions of subsection (b) of this section do not apply:

1 (1) to employment or a financial interest allowed by regulation of the
2 Ethics Commission if:

3 (i) the employment does not create a conflict of interest or the
4 appearance of a conflict of interest; or

5 (ii) the financial interest is disclosed;

6 (2) to a public official who is appointed to a regulatory or licensing unit in
7 accordance with a statutory requirement that entities subject to the jurisdiction of the unit
8 be represented in appointments to it;

9 (3) as allowed by regulations adopted by the Ethics Commission, to an
10 employee whose government duties are ministerial, if the private employment or financial
11 interest does not create a conflict of interest or the appearance of a conflict of interest; or

12 (4) to a member of a board who holds the employment or financial interest
13 when appointed if the employment or financial interest is disclosed publicly to the
14 appointing authority, the Ethics Commission, and, if applicable, the Senate of Maryland
15 before Senate confirmation.

16 **(F) (1) NOTWITHSTANDING §§ 5-301 AND 5-303 OF THIS TITLE, IF THE**
17 **ETHICS COMMISSION AUTHORIZES, BY REGULATION, EMPLOYMENT OR A**
18 **FINANCIAL INTEREST UNDER SUBSECTION (C) OF THIS SECTION BY THE GOVERNOR,**
19 **LIEUTENANT GOVERNOR, ATTORNEY GENERAL, TREASURER, OR COMPTROLLER,**
20 **THE ETHICS COMMISSION SHALL:**

21 **(I) PROMPTLY NOTIFY THE JOINT ETHICS COMMITTEE; AND**

22 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
23 **SUBSECTION, PROVIDE THE JOINT ETHICS COMMITTEE A COPY OF ANY**
24 **AGREEMENT, MEMORANDUM OF UNDERSTANDING, OR OTHER SUMMARY OF ETHICS**
25 **COMMISSION ADVICE ASSOCIATED WITH THE EXCEPTION.**

26 **(2) THE ETHICS COMMISSION IS NOT REQUIRED TO PROVIDE THE**
27 **JOINT ETHICS COMMITTEE WITH INTERNAL DELIBERATIVE DOCUMENTS THAT THE**
28 **STAFF OF THE ETHICS COMMISSION PROVIDED TO THE ETHICS COMMISSION.**

29 5-507.

30 Except in the discharge of an official duty, an official or employee **OR A FORMER**
31 **OFFICIAL OR EMPLOYEE** may not disclose or use confidential information acquired by
32 reason of the [official's or employee's] **INDIVIDUAL'S** public position **OR FORMER PUBLIC**
33 **POSITION** and not available to the public:

1 (1) for personal economic benefit; or

2 (2) for the economic benefit of another.

3 5–514.

4 (b) (1) A legislator shall report the following information in writing to the
5 Joint Ethics Committee at the times and in the manner required by the Joint Ethics
6 Committee:

7 (i) subject to paragraph (2) of this subsection, if representing a
8 person for compensation before a State or local government agency, except in a judicial
9 proceeding or in a quasi-judicial proceeding, the name of the person represented, the
10 services performed, and the consideration;

11 (ii) if representing a State or local government agency for
12 compensation, the name of the agency, the services performed, and the consideration;

13 (iii) the name of any business enterprise subject to regulation by a
14 State agency in which the legislator and a member of the legislator's immediate family
15 (spouse and children living with the legislator), together or separately, have:

16 1. the lesser of:

17 A. 10% or more of the capital stock of any corporation; or

18 B. capital stock of any corporation with a cumulative value of
19 \$35,000 or more; and

20 2. any interest in a partnership, limited liability partnership,
21 or limited liability company;

22 (iv) **EXCEPT FOR EMPLOYMENT AS A LEGISLATOR**, details,
23 **INCLUDING THE SUBJECT MATTER AND CONSIDERATION**, of any **FINANCIAL OR**
24 **contractual relationship, INCLUDING A FINANCIAL OR CONTRACTUAL RELATIONSHIP**
25 **INVOLVING A BUSINESS ENTITY WHOSE INTERESTS ARE ATTRIBUTABLE TO THE**
26 **LEGISLATOR UNDER § 5–608 OF THIS TITLE**, with a governmental **OR**
27 **QUASI-GOVERNMENTAL** entity of the State or a local government in the State[, including
28 the subject matter and the consideration];

29 (v) details of any transaction with a governmental entity of the State
30 or a local government in the State involving a monetary consideration;

31 (vi) except for employment as a legislator, the name of any:

32 1. primary employer of the legislator;

1 (ii) a candidate for office as a State official; or

2 (iii) a secretary of a principal department in the Executive Branch.

3 (3) The Ethics Commission and the Joint Ethics Committee may not:

4 (I) provide public access to a portion of a statement that is filed after
5 January 1, 2019, and that includes an individual's home address that the individual has
6 identified as the individual's home address; OR

7 (II) POST ON THE INTERNET INFORMATION RELATED TO
8 CONSIDERATION RECEIVED THAT IS REPORTED UNDER § 5-607(J) OF THIS
9 SUBTITLE.

10 5-607.

11 (a) A statement that is required under § 5-601(a) of this subtitle shall contain
12 schedules disclosing the information and interests specified in this section, if known, for
13 the individual making the statement for the applicable period.

14 (A-1) AN INDIVIDUAL WHO IS REQUIRED TO DISCLOSE THE NAME OF A
15 BUSINESS UNDER THIS SECTION SHALL DISCLOSE ANY OTHER NAMES THAT THE
16 BUSINESS IS TRADING AS OR DOING BUSINESS AS.

17 (J) (1) THE STATEMENT SHALL INCLUDE A SCHEDULE OF ANY FINANCIAL
18 OR CONTRACTUAL RELATIONSHIP WITH A GOVERNMENTAL OR
19 QUASI-GOVERNMENTAL ENTITY OF THE STATE OR LOCAL GOVERNMENT IN THE
20 STATE.

21 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
22 FOR EACH FINANCIAL OR CONTRACTUAL RELATIONSHIP, THE SCHEDULE SHALL
23 INCLUDE A DESCRIPTION OF THE RELATIONSHIP, THE SUBJECT MATTER OF THE
24 RELATIONSHIP, AND THE CONSIDERATION.

25 (3) AN INDIVIDUAL, OTHER THAN A STATE OFFICIAL OR CANDIDATE
26 TO BE A STATE OFFICIAL, MAY NOT BE REQUIRED TO DISCLOSE THE INDIVIDUAL'S
27 EMPLOYMENT AS A PUBLIC OFFICIAL.

28 (K) TO THE EXTENT NOT REPORTED UNDER SUBSECTIONS (A) THROUGH (J)
29 OF THIS SECTION, A STATEMENT FILED BY THE GOVERNOR, LIEUTENANT
30 GOVERNOR, ATTORNEY GENERAL, TREASURER, OR COMPTROLLER SHALL
31 INCLUDE:

1 **(1) THE NAME OF EACH FOR-PROFIT BUSINESS ENTITY IN WHICH THE**
2 **INDIVIDUAL HAS A 10% OR GREATER INTEREST; AND**

3 **(2) THE NAME OF EACH PERSON WHO OWNS A 10% OR GREATER**
4 **INTEREST IN ANY ENTITY DISCLOSED UNDER ITEM (1) OF THIS SUBSECTION.**

5 5-608.

6 (a) The following are deemed to be interests of the individual under § 5-607(b),
7 (c), [and] (d), **(J), AND (K)** of this subtitle:

8 (1) an interest held by a spouse or child of the individual, if the interest
9 was controlled, directly or indirectly, by the individual at any time during the applicable
10 period;

11 (2) an interest held, **AT ANY TIME DURING THE APPLICABLE PERIOD,**
12 **by:**

13 **(I) a business entity in which the individual held a [30%] 10% or**
14 **greater interest [at any time during the applicable period];**

15 **(II) A BUSINESS ENTITY DESCRIBED IN ITEM (I) OF THIS ITEM IN**
16 **WHICH THE BUSINESS ENTITY HELD A 25% OR GREATER INTEREST;**

17 **(III) A BUSINESS ENTITY DESCRIBED IN ITEM (II) OF THIS ITEM**
18 **IN WHICH THE BUSINESS ENTITY HELD A 50% OR GREATER INTEREST; AND**

19 **(IV) A BUSINESS ENTITY IN WHICH THE INDIVIDUAL DIRECTLY**
20 **OR INDIRECTLY, THROUGH AN INTEREST IN ONE OR A COMBINATION OF OTHER**
21 **BUSINESS ENTITIES, HOLDS A 10% OR GREATER INTEREST; and**

22 (3) an interest held by a trust or an estate in which, at any time during the
23 applicable period, the individual:

24 (i) held a reversionary interest;

25 (ii) was a beneficiary; or

26 (iii) if a revocable trust, was a settlor.

27 (b) Subsection (a)(2) of this section does not affect:

28 (1) the requirement under § 5-607(b) of this subtitle of disclosure of real
29 estate interests held in the name of a partnership, limited liability partnership, or limited
30 liability company in which the individual holds an interest; or

1 (2) the requirement under § 5–607(c) of this subtitle of disclosure of all
2 partnerships, limited liability partnerships, or limited liability companies in which the
3 individual holds an interest.

4 (c) For the purposes of § 5–607 of this subtitle, interests held by a blind trust may
5 not be considered to be interests of the person making the statement if the blind trust is
6 approved by the Ethics Commission in accordance with regulations adopted under §
7 5–501(b) or § 5–502(c) of this title and is operated in compliance with those regulations.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2021.